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statute has no extraterritorial force, rights under it, not contrary to the policy of Pennsylvania, will, by comity, be enforced by remedies according to Pennsylvania procedure. *Knight v. W. J. Ry. Co.*, 108 Pa. St. 250. And although at common law such actions abate upon the death of the person injured, yet where the statute of the State in which the injury was inflicted gives a right of action to the personal representatives of the deceased, that right may be enforced in another State having a similar statute. *Burns v. Grand Rapids & I. R. Co.*, 113 Ind. 169; 15 N. E. 230.

EMINENT DOMAIN—PROCEEDINGS BY THE UNITED STATES—DISMISSAL—DAMAGES.—UNITED STATES v. DICKSON, 127 FED. 774 (C. C.).—*Held*, that proceedings by the United States to condemn land for a public building or other governmental purpose may be dismissed at any time before the actual acceptance of the property and payment therefor, until which time there is no "taking" of the property, and the United States is not subject to the payment of costs or damages to the landowners on such dismissal.

Such costs and damages seem to have no existence independently of statutory enactments. Thus a municipal corporation which institutes condemnation proceedings against certain land, and abandons them six months later, is not liable for damages to the rental of the land caused by such delay, in the absence of any showing that the delay was unnecessary, or that there was malice or want of probable cause. *Feiten v. City of Milwaukee*, 47 Wis. 494; 2 N. W. 1148. So where a city proceeds under an ordinance to widen a street, and thereafter takes no steps in the premises, and an abutting owner, learning of the passage of the ordinances, tears away all the front of a building in front of his lot and rebuilds such front four feet further back, he cannot recover for the expense incurred from the city. *Whyte v. City of Kansas*, 23 Mo. App. 409. And where a railroad company dismisses an appeal in condemnation proceedings against the protest of the appellee, in the absence of a special contract or positive rule of law, there can be no recovery against the railroad company for services, time, or expenses incurred in defending against such condemnation proceedings. *Bergmann v. St. P., S. & T. F. Ry. Co.*, 21 Minn. 533.

EQUITY—STREET IMPROVEMENT—SETTING ASIDE ASSESSMENT.—FARR v. CITY OF DETROIT, 99 N. W. 19 (MICH.).—A city council paved a street in accordance with a petition which did not have enough signers to give the council jurisdiction. *Held*, that a property owner on the street cannot maintain an action in equity, after the work is completed, to have his assessment set aside. Grant, J., *dissenting*.

As a general rule assessments made without all the requisites of jurisdiction can be restrained, *Zeigler v. Hopkins*, 117 U. S. 683; *Dillon's Munic. Corps*, Sec. 400, Vol. 2. But a party may so act as to be estopped to deny the authority of the city officials. *Goodwillie v. City of Manistee*, 93 Mich. 170. As to what constitutes an estoppel, in such cases, however, there is a conflict. Some decisions hold that if the property owner simply knows that the work is going on he is estopped. *People v. City of Rochester*, 21 Barb. 656; *Fitzhugh v. Bay City*, 109 Mich. 581. Others, that he is not obliged to take any action till his rights are called in question. *Mulligan v. Smith*, 59

Cal. 206; *Whitney v. Port Huron*, 88 Mich. 268. From these citations it appears that even in Michigan, where the present case was decided, the decisions are not harmonious. The rule held generally is, contrary to the decision in the present case, that mere inaction will not estop the complainant from contesting the jurisdiction of the officials. *Ogden City v. Armstrong*, 168 U. S. 224; *Canfield v. Smith*, 34 Wis. 381.

EVIDENCE—ADMISSIBILITY—DANGEROUS PREMISES.—*POTTER v. CAVE*, 98 N. W. 569 (Ia.).—In an action for injuries sustained by falling down an unguarded stairway, plaintiff attempted to introduce evidence of previous accidents on the stairway and of warnings to the defendant that it was dangerous. *Held*, that it was properly excluded.

Following previous decisions in the same court, *Hudson v. R. R.*, 59 Ia. 581; *Croddey v. R. R.*, 91 Ia. 605. But the court has intimated its disapproval of this view. *Mathews v. Cedar Rapids*, 80 Ia. 466. The leading case in support is, *Collins v. Dorchester*, 6 Cush. 396; *Hubbard v. R. R.*, 39 Me. 508. The objection to the evidence is based on the fact that its introduction tends to divert the attention of the jury from the real question in dispute by raising a collateral issue. The better rule, however, seems to be that such evidence is admissible. The character of the place being in issue the defendant should be prepared to show its real character in the face of any proof bearing on the subject. *Columbia v. Armes*, 107 U. S. 519; *Quinlan v. Utica*, 74 N. Y. 603; *Chicago v. Powers*, 42 Ill. 169. As tending to support the principal decision, in a number of cases evidence that persons had escaped injury was excluded. *Aldrich v. Pelham*, 1 Gray 510; *Ass'n. v. Giles*, 33 N. J. L. 263. But in the latter case the court said that the matter rested in the discretion of the court; it being often better to admit such evidence. As illustrating a case where this kind of evidence was properly admitted see *Calkins v. Hartford*, 33 Conn. 57. But this latter class of evidence, viz.: that other persons escaped injury, is not so convincing as evidence that others were injured, since persons are not wont to seek such places and do not willingly fall into them. *Columbia v. Armes*, *supra*.

LEASE—COVENANTS AND WARRANTIES—QUIET ENJOYMENT—EMINENT DOMAIN.—*PABST BREWING CO. v. THORLEY*, 127 FED. 439 (C. C. A.).—Where a lessor covenanted to secure the lessee in the quiet enjoyment of the premises against acts of the lessor, his heirs, executors, administrators or assigns, "or any other persons," *held*, that the words "or any other persons," being read by the rule *ejusdem generis*, do not warrant against the exercise by the government of its power of eminent domain.

All contracts are inherently subject to the paramount power of the sovereign, and the exercise of such power is never understood to involve their violation. The power acts upon the property which is the subject of the contract, and not upon the contract itself. *Osborn v. Nicholson*, 13 Wall. 655. Eminent domain is the right of the sovereign, without the consent of the owner, when necessary, to make private property subservient to the public welfare, and hence does not involve paramount ownership in the State. *Giesy v. Cincinnati, W. & Z. R. Co.*, 4 Ohio St. 308. Even the act of a *de facto* sovereign is outside the scope of the covenant. If the sovereignty be eventu-